

REMARKS

This is in response to the above-identified Office Action. The above listing of the claims supersedes any previous listing. Favorable reexamination and reconsideration are respectfully requested in view of the preceding amendments and the following remarks.

It is submitted that the action is without merit. It confuses restriction and election requirements, it ignores the cancellation of claims 1-9 but makes use of the published specification (which clearly lists the cancellation of claims 1-9) to identify the paragraphs which are alleged to support the position of different species.

Mutual exclusivity or non-obvious variants, as cursorily concluded in this action, are submitted as not supporting a position of patentable distinction. However, if the Examiner wishes to maintain this position, then it is courteously requested that these standards of patentability also be applied to any art that is cited against the claims during substantive examination to avoid the impropriety of a dual standard of patentability. It is also pointed out that maintaining this position also allows each of the non-elected species to be separately prosecuted with protection under § 121 from any double patenting rejection.

Conclusion

It is respectfully submitted that the claims as they have been amended stand ready for substantive examination. Favorable reconsideration and allowance of this application are courteously solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
LOWE HAUPTMAN HAM & BERNER, LLP



Kenneth M. Berner
Registration No. 37,093

Customer Number: 33308
1700 Diagonal Road, Suite 300
Alexandria, Virginia 22314
(703) 684-1111 KMB/KT/ser
(703) 518-5499 Facsimile
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